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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,005	11/14/2003	David R. Hall		1955

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04/26/2005

David R. Hall
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EXAMINER

NGUYEN, THUKHANH T

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/714,005

Applicant(s)

HALL ET AL.

Examiner

Thu Khanh T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: on page 9, line 21, should the "spring 25" be spring 24?

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-4, 11-13 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Edwards et al (6,155,809).

Edward et al teach an apparatus for applying viscous mass to a surface corner, comprising an applicator head (21) having a socket (35), a detachable source, or nozzle (24) with a spherical tip (38), a chassis or coupler (23) comprising stationary member (30) and a retractable biased member, or spring (39), wherein the biased member is capable of engaging and disengaging the nozzle from the socket (col. 3, lines 12-18).

In regard to claims 3-4, 10, and 16 the retractable bias member (39) and a stationary member (30) each having a contacting surface that does not corresponding to the surface of the nozzle (38) and cooperate to lock the spherical tip (38) in the socket (35), wherein the spherical

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tip is capable of different movements within the socket because of the flexibility of the biased member.

In regard to claims 11-13, it is inherently that the exterior surface of spherical tip (38) of the nozzle is locked to seal with corresponding interior surface of socket (35) because it is necessary to prevent the material from leaking out from the source.

In regard to claim 17, the nozzle (24) is connected to a material source (22).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards et al ('809).

In regard to claim 2, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to provide corresponding contacting surfaces between the biased member and the nozzle in order to improve the engaging of the biased member and the nozzle. There is no invention in merely changing the shape or form of an article without changing its function except in a design patent. See *Eskimo Pie Corp. v. Levous et al.*, 3 USPQ 23 and *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966)

In regard to claims 14-15, it would have been obvious to skilled artisans to change the shape of the nozzle depending on the shape of the socket and/or the shape of the source and the

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chassis in order to provide a proper fit among the tool parts to prevent the material leaking from the tool during the finishing process. There is no invention in merely changing the shape or form of an article without changing its function except in a design patent. See *Eskimo Pie Corp. v. Levous et al.*, 3 USPQ 23 and *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966)

6. Claims 5 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards et al ('809) as applied to claims 1, 3-4, 11-13 and 17 above, and further in view of Mower (5,622,729).

Edwards et al disclose a corner finishing tool as described above, but fails to disclose that the spring is a compression spring.

Mower discloses a corner finishing tool, comprising a compression spring (76) for locking and unlocking a ball (44) of the mastic delivery device (88).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Edwards et al by replacing the spring with compression spring as taught by Mower because the compression spring could provide a quick connect means for securing the tools to the applicators.

In regard to claims 7-8, the retract direction of the spring is inherently depend on the orientation of the spring, and it would have been obvious to a skilled artisan to determine the retraction of the spring in according to the structure of the corner finishing device.

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7. Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards et al ('809) as applied to claims 1, 3-4, 11-13 and 17 above, and further in view of MacMillan (6,367,121).

Edwards et al disclose a finishing device as described above, but fail to disclose that the spring is a torsional spring and retracts rotationally.

McMillan discloses a finishing tool, comprising an adjustable handle being locked and unlocked by a rotational coil torsion spring (68).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Edwards et al by replacing the spring with the torsion spring as taught by McMillan because the torsion spring would lock and unlock the tool without compress or expanding the tool parts.

8. Claims 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards et al ('809) as applied to claims 1, 3-4, 11-13 and 17 above, and further in view of Mower et al (4,451,223).

Edwards fails to disclose a seal.

Mower et al disclose a corner finishing tool, comprising a gasket (32) for sealing the socket bracket (30) and face of a retainer plate (16).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Edwards by providing a gasket, or a seal as taught by Mower et al in order to prevent the loss of mastic, or finishing material during the operation between the nozzle and the applicator.

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In regard to the number of seal and the location of the seal, it would have been obvious to skilled artisans to provide appropriate seals at different location as needed to prevent the material leaking from the tool during the operation.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Khanh T. Nguyen whose telephone number is 571-272-1136. The examiner can normally be reached on Monday- Friday, 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benjamin L. Utech can be reached on 571-272-1137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TN


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